

// A special meeting of the Council of the City of Lynchburg, recessed from June 13, was held on the 27<sup>th</sup> day of June, 2006, at 1:00 P.M., Council Chamber, City Hall, Joan F. Foster, Vice President, presiding. The purpose of the meeting was to conduct a work session regarding several items. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Seiffert

5

Absent: Johnson

1

// Prior to beginning the work session, Council Member Dodson explained that at the last City Council meeting he was very curt with Mr. Donald May who spoke during the public hearing regarding the request from Lynchburg College for a conditional use permit. Council Member Dodson publicly apologized to Mr. May for his behavior and stated that he plans to visit Mr. May and observe first hand the problems that Mr. May is experiencing with Lynchburg College students.

// City Manager Kimball Payne then asked Emergency Management Coordinator Les Puckett to provide City Council with a briefing regarding the potential flooding of the James River in the City's lower basin.

// Council Member Johnson arrived at 2:02 p.m. during Agenda Item #1.

// In the matter of Community Planning - Zoning, a work session was held regarding the petition of JBO, LLC for a conditional use permit at 1207 and 1226 Greenview Drive to allow the construction of a Traditional Neighborhood Development (TND) on a tract of approximately one hundred twenty three (123) acres in an R-1, Single-Family Residential District and R-C, Conservation District. City Planner Tom Martin stated that City staff met with the developers to discuss the concerns expressed by the citizens at the June 13 public hearing and following the meeting the developers agreed to the following six additional conditions to address some of the concerns:

- 8. Landscaping shall be provided within the twenty-five foot (25') buffer area along the northeastern property line. Landscaping shall consist of one (1), one and five tenths inch (1.5") caliper tree for every ten (10) feet of property line. Landscaping shall consist of a mixture of evergreen and deciduous trees and may be placed in collective groupings as approved by the City Planner.
- 9. Buildings within the "core" area and denoted by Blocks "A, B, C, D & E" on the master plan shall be limited to a total of five (5) stories as defined by the International Building Code (IBC). Of the buildings located within the core area, no more than fifty percent (50%) may be five (5) stories.
- 10. No building within four hundred feet (400') of the Windsor Hills neighborhood may be five (5) stories.
- 11. The proposed roads connecting to Greenview Drive shall be limited to three (3) full intersections and three (3) right in and right out intersections.
- 12. At least fifty percent (50%) of the units located within Blocks "H & I" shall be condominium units for sale.
- 13. The Cornerstone Design Review Committee shall consist of three (3) City representatives selected by the Director of Community Development and three (3) representatives selected by the master developer. The land planners for Cornerstone shall serve in an advisory capacity to the

Committee. If the Committee can not reach consensus on interpretation of the Cornerstone TND Guidelines, the matter shall be referred to the City's Design Review Board for final interpretation.

Following discussion, City Council asked that condition 10 be revised to read..."No building within four hundred feet (400') of the Windsor Hills neighborhood may be in excess of four (4) stories. Council also asked that condition 7 be revised to reflect that the "...right of way will be reserved for future vehicle access when determined appropriate by the City Council." Mr. Martin then provided an overview regarding questions and issues raised at the June 13 public hearing including the ones addressed with the additional conditions agreed to by the developer. Mr. Martin went on to say that the development is in compliance with the Comprehensive Plan and the Future Land Use Map, which recommends a Traditional Neighborhood Development for the property. City Council focused its discussion on three main areas, i.e., density, building height and traffic. With regard to density, Mr. Martin stated that the developer is proposing a density of 10.8 units per acre even though the Comprehensive Plan allows for a density of up to 12 units per acre and the City's Zoning Ordinance allows for a density of up to 25 units per acre. With regard to traffic, Mr. Martin stated that since the development would increase the amount of vehicles on Greenview Drive, a traffic study was done and that the study recommends certain improvements to Greenview Drive. Mr. Martin went on to say that the study indicates that the improvements to Greenview Drive are needed regardless of the development. Traffic Engineer Gerry Harter stated that the Greenview Drive/Leesville Road intersection is currently causing traffic problems and that the intersection needs to be expanded. In response to questioning, Mr. Payne stated that Greenview Drive improvements are not currently in the Six Year Capital Improvements Plan (CIP). Some Council Members stated that the road improvements needed to coincide with the development and that Council should consider including the project in the CIP. Following discussion, City Council directed staff to move forward with looking at the needed improvements to the Greenview Drive/Leesville Road intersection. With regard to building height, Mr. Martin explained that conditions 9 and 10 address some of the concerns regarding building height by limiting the buildings within the "core" area and denoted by Blocks "A, B, C, D & E" on the master plan to a total of five stories and that of the buildings located within the core area, no more than fifty percent may be five stories. Mr. Martin also explained that no building within four hundred feet (400') of the Windsor Hills neighborhood shall be in excess of four stories. Some Council Members were still concerned regarding the height of the buildings. City Manager Kimball Payne explained that City staff have been discussing an amendment to the City's Zoning Ordinance that would reduce the number of parking spaces needed for a TND and if such an amendment is approved by City Council, then a reduction in parking spaces may allow the developer to reduce the square footage of the 5<sup>th</sup> floors of buildings in the core area by an amount equal to the area recovered by a reduction in the parking spaces. In response to Mr. Payne's request, City Council authorized staff to pursue such an amendment. In response to Council questioning, the developer stated that they were willing to add another condition whereby they would agree to reduce the

square footage of the 5<sup>th</sup> floors of buildings in the core area by an amount equal to the area recovered by a reduction in the parking spaces but would like a few minutes to draft the wording of the condition. City Council agreed to give the developers time to draft another condition, and then proceeded with the next item on the agenda.

// Following Roll Call, the developers returned to the Council Chamber and presented the following condition to address the concern regarding the height of some of the buildings..."14. The developer agrees to reduce the square footage of the 5<sup>th</sup> floors of buildings in the core area by an amount equal to the area recovered by a reduction in the parking spaces required by the City's Zoning Ordinance." Following discussion, the condition was accepted with the following change, "...in the core area, if requested by the City..." Council Member Helgeson stated that he could not support the development until the traffic concerns have been addressed. Council Member Johnson made a motion to approve the conditional use permit with the following conditions:

1. The property shall be developed in substantial compliance with the submitted master plan entitled "Cornerstone" Traditional Neighborhood Development dated April 24, 2006 and prepared by Sympoetica, Community Planners & Designers and Hurt & Proffitt, Inc., Engineers.
2. The property shall be developed in compliance with the Design, Landscaping & Screening and Architectural Guidelines for the Cornerstone TND dated April 12, 2006 and prepared by Sympoetica, Community Planners & Designers.
3. The following uses shall require the approval of a conditional use permit by the City Council before being allowed within the Cornerstone Development:
  - a. Veterinarian Hospitals with or without outdoor kennels
  - b. Care Centers, excluding day care centers
  - c. Churches or other places of worship
  - d. Group Homes
  - e. Nursing Homes or Assisted Living Facilities
  - f. Community Swimming Pools
  - g. Commercial Recreation Establishments
  - h. Public or Community Recreational Facilities
4. Stormwater Management facilities will be integrated into the overall design of the development and design is subject to the approval of the City's Environmental Planner and the Cornerstone Design Review Board.
5. Water quality will be addressed thru a combination of Best Management Practices (BMP's) and low impact development standards. Design of water quality measures is subject to approval of the City's Environmental Planner and the Cornerstone Design Review Board.
6. All amenities in the area designated as park on the submitted master plan shall be the responsibility of the developer. All park areas shall be connected to the overall development by a series of trails and or sidewalks. All improvements are subject to approval by the Director of Parks and Recreation.

7. Bicycle and pedestrian connections to Hunterdale Drive and the unnamed stub street located at the northeastern portion of the property shall be made. Right of Way will be reserved for future vehicle access when determined appropriate by the City Council.
8. Landscaping shall be provided within the twenty-five foot (25') buffer area along the northeastern property line. Landscaping shall consist of one (1), one and five tenths inch (1.5") caliper tree for every ten (10) feet of property line. Landscaping shall consist of a mixture of evergreen and deciduous trees and may be placed in collective groupings as approved by the City Planner.
9. Buildings within the "core" area and denoted by Blocks "A, B, C, D & E" on the master plan shall be limited to a total of five (5) stories as defined by the International Building Code (IBC). Of the buildings located within the core area, no more than fifty percent (50%) may be five (5) stories.
10. No building within four hundred feet (400') of the Windsor Hills neighborhood may be in excess of four (4) stories.
11. The proposed roads connecting to Greenview Drive shall be limited to three (3) full intersections and three (3) right in and right out intersections.
12. At least fifty percent (50%) of the units located within Blocks "H & I" shall be condominium units for sale.
13. The Cornerstone Design Review Committee shall consist of three (3) City representatives selected by the Director of Community Development and three (3) representatives selected by the master developer. The land planners for Cornerstone shall serve in an advisory capacity to the Committee. If the Committee can not reach consensus on interpretation of the Cornerstone TND Guidelines, the matter shall be referred to the City's Design Review Board for final interpretation.
14. The developer agrees to reduce the square footage of the 5<sup>th</sup> floors of buildings in the core area, if requested by the City, by an amount equal to the area recovered by a reduction in the parking spaces required by the City's Zoning Ordinance.

The motion was seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-06-075, with the above conditions, granting the Conditional Use Permit:

Ayes: Dodson, Foster, Gillette, Johnson, Seiffert

5

Noes: Helgeson

1

// Information Technology Director Mike Goetz along with City Attorney Walter Erwin provided an update regarding recent changes in state and federal laws regulating the cable television industry and its impact on the City's franchising ability with the local provider of cable television.

// City Council discussed dates for holding its annual Retreat and agreed to reserve the dates of August 9, 10 and September 11 for the retreat. City Council asked staff to notify them as soon as possible once the final dates are selected.

// During roll call, and in response to Council Member Helgeson's inquiry, City Manager Kimball Payne stated that the City's right of way along the Route 460 Bypass would be mowed in anticipation of the large number of individuals attending the opening of the new facilities of the Thomas Road Baptist Church on Candler's Mountain Road. City Manager Kimball Payne presented two items for Council consideration. The first item was a resolution expressing City Council's support for the Big South Conference and for the efforts of Liberty University to secure the bid to be the host of the 2007-2008 Big South Women's Basketball Championship. On motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-06-076, as presented, expressing City Council's support for the Big South Conference and for the efforts of Liberty University to secure the bid to be the host of the 2007-2008 Big South Women's Basketball Championship:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// City Manager Payne then presented a resolution authorizing the filing of a grant application to obtain a Homeland Security Grant of \$38,795, with no matching City funds. On motion of Council Member Gillette, seconded by Council Member Johnson, Council by the following recorded vote adopted Resolution #R-06-077, as presented, authorizing the filing of a grant application to obtain a Homeland Security Grant of \$38,795, with no matching City funds:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// On motion of Council Member Johnson, seconded by Council Member Gillette, Council by the following recorded vote elected to hold a closed meeting to consider appointments to Council-appointed Boards and Commissions and to conduct the performance evaluations for the City Manager, City Attorney, and Clerk of Council pursuant to Section 2.2-3711 (A) (1) of the Code of Virginia, 1950, as amended:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// The meeting was re-opened to the public.

// Council Member Johnson made the following motion:

WHEREAS, the Council of the City of Lynchburg has convened a closed meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by City Council that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lynchburg certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by Council.

The Motion was seconded by Council Member Gillette, and Council by the following recorded vote adopted the motion:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

// In the matter of Appointments, and on nomination of Council Member Gillette, Council by the following recorded vote re-appointed Julia P. Doyle and Leslie J. Faircloth to serve on the School Board for terms to expire June 30, 2009:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote appointed Rev. Keith Anderson to serve on the School Board for a term to expire June 30, 2009:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote re-appointed Massie G. Ware, Jr. to serve on the Industrial Development Authority Board for a term to expire June 30, 2010:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote appointed Mark Varah to serve on the Industrial Development Authority Board for a term to expire June 30, 2010:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

On nomination of Council Member Gillette, Council by the following recorded vote appointed H. Michael Lucado, Jr., to fill an unexpired term on the Industrial Development Authority Board ending June 30, 2009:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

// The meeting was adjourned at 4:59 p.m.

---

Clerk of Council

// A regular meeting of the Council of the City of Lynchburg was held on the 27th day of June, 2006, at 5:00 P.M. in the Council Chamber, City Hall, Joan F. Foster, Vice President, presiding. Council Member Gillette gave the Invocation. The Pledge of Allegiance was led by the Police Officer in attendance. The following Members were present:

Present: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Absent:	0

// Copies of the minutes of the June 13 (two meetings), 2006 meetings, having been previously furnished Council, reading was dispensed with, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote approved the minutes as presented:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// In the matter of Property, Resolution #R-06-066 approving the sale and conveyance of three vacant lots of City-owned property located off of Third Street and behind 300 Madison Street to Wayne and Amy Brown for \$1,600, laid over from the June 13, 2006 meeting, was again presented and read, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// In the matter of Public Works - General, Resolution #R-06-074 amending FY 2006 General Fund Reserve for Contingencies and appropriating \$150,000 for the purpose of constructing a connector road from Atlanta Avenue to the Sam's Club/Wal-Mart parking lot on Wards Road, laid over from the June 13, 2006 meeting, was again presented and read, and on motion of Council Member Seiffert, seconded by Council Member Johnson, Council by the following recorded vote adopted the Resolution:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// In the matter of Human Services - General, City Council Report #4 was considered. Assistant Director of Social Services Cynthia Kirkland outlined the request and responded to questions by Council Members regarding the replacement of the access control system. On motion of Council Member Johnson, seconded by Council Member Dodson, Council by the following recorded vote introduced and laid over to a later meeting for final action Resolution #R-06-078, as presented, amending FY 2006 City Capital Projects Fund and appropriating \$68,540 to fund a replacement access control system in the Human Services Center:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert	6
Noes:	0

// In the matter of City Code, City Council Report #5 regarding amendments to the Lynchburg City Code was considered. City Attorney Walter Erwin stated that the Commonwealth's Attorney advises that having two sections concerning the discharge of firearms in the City Code is causing some confusion and

sometimes complicates the prosecution of individuals who inappropriately discharge firearms within the City.

The Commonwealth's Attorney recommends repealing Section 27-68 of the City Code and relying on Section 27-67 to deal with situations involving the inappropriate discharge of firearms. Mr. Erwin went on to say that the Police Department does not have any problems with repealing Section 27-68, and if a situation occurs where someone should be charged with discharging a firearm in a public place the individual can be charged with violating the State Code. Council Member Seiffert stated that he would like to recommend an amendment to Section 27-67 by adding the following language, i.e., "(d) This section shall not apply to any law-enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law." Council Members responded favorably to the amendment to Section 27-67. Council Member Gillette also asked that Section 27-67 be scheduled for discussion at a future work session in relation to paintball markers and air guns. On motion of Council Member Helgeson, seconded by Council Member Seiffert, Council by the following recorded vote adopted Ordinance #0-06-079, as presented, repealing Sec. 27-68 of the City Code, and adopted Ordinance #O-06-080 amending Sec. 27-67 of the City Code by adding the following language..."(d) This section shall not apply to any law-enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law.":

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

// In the matter of Public Works - General, City Council Report #6 was considered. On motion of Council Member Helgeson, seconded by Council Member Gillette, Council by the following recorded vote adopted Resolution #R-06-081, as presented, regarding participation in the Urban Construction Initiative (UCI) which permits cities and towns to take responsibility for their construction program:

Ayes: Dodson, Foster, Gillette, Helgeson, Johnson, Seiffert 6

Noes: 0

// The meeting was recessed at 5:17 P.M. to July 3, at 10:00 A.M., to conduct City Council's organizational meeting.

---

Clerk of Council



// A special meeting of the Council of the City of Lynchburg, recessed from June 27, was held on the 3rd of July, 2006 at 10:00 A.M. in the Council Chamber, City Hall, Patricia W. Kost, Clerk of Council, presiding.

The purpose of the meeting was to elect City Council officers. The following members were present:

Present: Dodson, Foster, Garrett, Gillette, Helgeson, Johnson, Seiffert 7

Absent: 0

// The Clerk of Council declared nominations in order for the Office of President of Council, who will serve as ex-officio Mayor of the City of Lynchburg for a two-year term ending June 30, 2008. Council Member Garrett nominated Council Member Gillette. Council Member Dodson nominated Council Member Foster. Council Member Helgeson nominated Council Member Seiffert. There being no further nominations, Council Member Garrett made a motion that the nominations for President be closed. This motion was seconded by Council Member Seiffert, and Council by the following recorded vote approved the motion to close the nominations for President:

Ayes: Dodson, Foster, Garrett, Gillette, Helgeson, Johnson, Seiffert 7

Noes: 0

City Council voted by written ballot. Deputy Clerk Valeria Chambers received the written ballots and then read aloud the ballots:

Gillette: Garrett, Gillette 2

Foster: Dodson, Foster 2

Seiffert: Helgeson, Seiffert 2

Johnson: Johnson 1

// In response to Council questioning regarding Council Member Johnson voting for himself, City Attorney Walter Erwin stated that a Council Member may submit a "write in" candidate during the voting process.

// Council Member Johnson was dropped from the slate of candidates since he received the least votes.

// Council Member Gillette stated that the City has been through some difficult times recently, that it's important for Council to unify, so therefore he would like to withdraw his name.

// The Clerk of Council stated that a vote was needed for the two remaining nominees – Council Member Foster and Council Member Seiffert.

// City Council voted by written ballot. Deputy Clerk Chambers received the written ballots and then read aloud the ballots:

Foster: Dodson, Foster, Gillette, Johnson 4

Seiffert: Garrett, Helgeson, Seiffert 3

// Clerk of Council Kost announced that Council Member Foster has been elected President of Council.

// Mayor Foster took the chair and declared nominations in order for the office of Vice President of Council, who will serve as ex-officio Vice Mayor of the City of Lynchburg for a two-year term ending June 30, 2008.

Council Member Gillette nominated Council Member Seiffert. Council Member Johnson nominated Council Member Dodson. There being no further nominations, Council Member Gillette make

a motion that the nominations be closed. This motion was seconded by Council Member Johnson, and Council by the following recorded vote approved the motion to close the nominations for Vice President:

Ayes: Dodson, Foster, Garrett, Gillette, Helgeson, Johnson, Seiffert

7

Noes:

0

// City Council voted by written ballot. Deputy Clerk Chambers received the written ballots and then read aloud the ballots:

Seiffert: Garrett, Gillette, Seiffert

3

Dodson: Dodson, Foster, Helgeson, Johnson

4

// Mayor Foster announced that Council Member Dodson has been elected Vice President of Council.

// The meeting was recessed at 10:14 A.M. to July 11, at 1:00 p.m., to conduct a work session regarding several items.

---

Clerk of Council